

REMARKS

Applicants acknowledge the indication of the allowability of claims 12-20, noting that claim 20 has been objected to as being dependent on a rejected based claim, but otherwise deemed allowable. The Examiner is thanked for the courtesy of a telephonic conversation on August 10, 2005, discussing the claims.

Claims 1-11 of the present application stand rejected under 35 U.S.C. § 102(b) as anticipated by Chakrabarti, U.S. Patent No. 5,229,382. The Examiner alleges that a pharmaceutical composition according to the present invention can be in liquid form and contain only dissolved olanzapine, and thus no longer include the claimed polymorph. Applicants traverse this rejection. As noted by the Examiner, a “polymorph is a specific crystalline form of a compound that can crystallize in different forms.” Claims 1 and 11 of the present application, prior to the present Amendment, require that the claimed pharmaceutical composition comprise a polymorph. As pointed out by Examiner, a polymorph must be crystalline and therefore the claim, prior to amendment, requires the presence of crystalline olanzapine. Thus, applicants maintain that the claim on its face requires that the active pharmaceutical ingredient be crystalline form and the claim is allowable over a reference that does not disclose the claimed crystalline form.

Although Applicants maintain that claim amendments are not required, Claims 1 and 11 have been amended to recite that the claimed pharmaceutical compositions include a solid olanzapine polymorph. This amendment is supported by, for example, the originally filed claims, for the reasons set forth above, and the specification by the description of particular pharmaceutical compositions that retain crystalline structure as described in, for example, paragraphs [0040], [0045] and [0046].. Because the claims now require the presence of a solid form of olanzapine, the Examiner's position that pharmaceutical composition could contain only a non-solid form is rendered moot. The Examiner has in fact indicated that pharmaceutical compositions which contain solid forms of the claimed olanzapine polymorph such as, for example, suspensions, emulsions, solid capsules, granular formulations or powder formulations

are allowable over the prior art, as is evidenced by the allowability of claim 20, if amended to be in independent form.

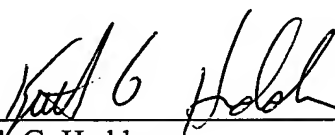
CONCLUSION

All of the stated grounds of rejection have been properly rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicants request that the Examiner indicate the allowability of claims 1-11, in addition to the allowability of claims 12-20 and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Dated: August 10, 2005

Respectfully submitted,

By 

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